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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,223	05/30/2001	Doreen Lynn Galli	RSW920010033US1	8092
30449 7590 02/25/2009 SCHMEISER, OLSEN & WATTS 22 CENTURY HILL DRIVE SUITE 302 LATHAM, NY 12110				
EXAMINER				
KANG, INSUN				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

09/870,223

Applicant(s)

GALLI, DOREEN LYNN

Examiner

INSUN KANG

Art Unit

2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 9, 14, 15, 17-20, and 22-25.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Insun Kang/
Examiner, Art Unit 2193

Continuation of 11, does NOT place the application in condition for allowance because:

1) The applicant continues to argue that: Osder does not teach receiving commands from a telephone caller and voice messages received from the telephone connection are commands. Osder teaches the software directing a command to the telephone caller and not vice versa. It is not inherent for the Network Application to receive a command from the user in order to select the prompt to be played (remark 9-11).

In response, the applicant's argument above is not clear as the voice interactive system such as in Osder plays prompts "over the telephone connection" based on communication between a caller and the system through caller commands (figure 4A). The call flow instructions of Network Application describe how the caller interacts with the system based on caller commands such as entering the application or user options/inputs. In response to the caller commands, the Network Application containing the call flow that defines when to play greetings and instructs the user based on user options such as playing a menu, voice message etc. A caller has to request to play a voice message or access the system (commands), then a prompt such as "you have five new messages" or a personal greeting/user name is played according to the call flow (i.e. col. 5 lines 54-56; col. 12 lines 59-61).

2) Osder does not teach responsive to said received commands, determining that the voice prompt is needed. Osder teaches that the PEP command is responsive to a determination that a voice prompt is needed which is the exact opposite of what claim 9 requires (remark 12-13). The applicant further argues that "Applicant asserts that the Examiner's statement that Applicant's specification recites 'when a voice prompt is needed...of the voice prompt' is irrelevant to the preceding feature of claim 9...the feature of claim 9 recites 'responsive to said received commands, determining that the voice prompt is needed' which is not addressed in the preceding argument by the Examiner in Response to Arguments (remark, 12-13)."

In response, it is still unclear what the exact opposite in Osder is. The only portion in the whole specification (page 1-10) that mentions "commands" and describes the above limitation is: "the processor 100 executes the application program 110 according to call flow instructions responsive to the needs and commands of a telephone caller...when a voice prompt is needed, the application program provides a metalanguage variable that identifies the function of the voice prompt" in pages 6-7. However, according to the applicant, this is "irrelevant" to the claim. Therefore, the applicant is respectfully requested to point out the other location(s) that is relevant to the limitation and describes "commands." Furthermore, as previously stated, Osder clearly discloses: when a "Network Application 10 requires that a prompt to be played (i.e. col. 7 lines 41-42)," according to the call flow, in response to a caller command to start the voice interactive system or check the voice message etc (as addressed above), the SPIN application table that assigns the values of the IDs to point to the prompt element sets such as the tables 2-5 containing the pre-recorded prompts in SPINDB as seen in Fig 3 is accessed. As has been pointed out in the examiner's answer mailed on 5/16/2006, the SPIN ID values (UV10AE, UV10SP etc in table 1) are the entry points to the pre-recorded prompt elements (Osder, col. 28 lines 30-40) "for selectively playing the prompts either in American English, Spanish ...etc (col. 8 lines 32-36)" when the voice prompts are needed to be played.

3) The Applicant continues to argue that: Osder does not teach omission of the preceding assembling step of assembling the runtime voice prompt by inserting the dynamic data into the template having the static elements and the missing data. Therefore, by being required to perform said assembling step which is not a step in the claimed first process, Osder does not anticipate claim 9. By being required to perform said assembling step, it is logically impossible for Osder to teach that the content of the first complete spoken message at runtime consists of the digital-to-analog converted first bit pattern existing in the first database record. (remark, 14)...Osder does not teach that the bits of the bit pattern "you have five new messages" is stored contiguously in a first database record prior to the digital-to-analog conversion as required by claim 9 (remark, 15-17).

In response, as previously addressed, the applicant appears to use the term "contiguously" in place of the term "static" which had previously used. Some reasonable interpretation of the term contiguously can be applied as the specification does not define the exact scope of the terms, contiguously/static. Such interpretation will not repeat here as that has been addressed in the previous office action. Furthermore, the applicant is respectfully requested to point out the location(s) in the specification that explicitly describes such "contiguously" stored bits. The instant specification states that: "The call flow instructions may specify that the first voice prompt heard by a telephone caller be a greeting. In the database 130 there could be a number of pre-recorded digitally encoded voice prompts that provide greetings in different languages, with different degrees of formality, spoken by male and female speakers and so forth (page 7)." Assuming the greeting is the contiguously stored bits in the database, Osder also discloses the call flow of the Network Application directs to play the user's recorded name or personal greeting (i.e. col. 12 lines 59-65) which are contiguously stored. Therefore, applicant's argument is not persuasive.

4) In response to applicant's argument regarding claim 18 (remark 17-22), see the response to the corresponding claim 9 above.

5) Applicant continues to argue that Osder does not teach that the IVR system administrator does not use special IVR programming skill to replace the first value with the second value. Osder does not teach that the user is or can be an IVR system administrator (remark, 22). The words interactive voice response in the phrase interactive voice response system administrator clarifies that the claimed system administrator is one who manages the IVR system and not a user who manages the user's own system or program (remark, 24).

In response, Osder discloses the SPIN Administration Facility 40 (i.e. col. 16 lines 43-45). The person who uses the facility is a system administrator. Second, an administrator is a "user" who has access privileges to manage an operation of a system or a specific project. Certainly a user can be a system administrator of his/her own system or program. Because the SPIN application ID is the Network Application's sole awareness of the languages that it supports and of the pre-recorded voice elements with which it speaks these languages (col. 28 lines 30-40)," the user changing the SPIN data utilizing the SPIN administration Facility 40 (col. 16 lines 43-50) is the administrator. Therefore, Osder's user/administrator also does not need to use specialized IVR programming skill because the call flow and programmatic logic of the Network Application is not altered to "play its prompts in a plurality of spoken languages merely by selecting the language via a simple token (col. 27 lines 26-40)." Therefore, applicant's argument is not persuasive.

6) Per claims 14, 15, 17, and 22-25:

Applicant continues to argue that Osder does not disclose music

(claim 14), audio tone (claim 15), beeps (claim 17), different

speakers (claim 22), male/female speakers (claim 23), formality (claim 24), wording/dialect (claim 25) in a voice prompt (remark, 23-35). Applicant asserts that it is not obvious to modify Osder by incorporating into Osder a claimed feature that is unknown in the prior art (remark, 25-38).

In response, the various characteristics of voice prompts such as beeps, music, spoken words etc are simply the data content stored in the database. Playing prompts that provide greetings spoken, for example, by a man or a woman is not patentably distinct. Nevertheless, Osder expressly states that voice prompts could be spoken by a man or a woman (Osder, col. 28, 11.56-58). This teaching strongly suggests that the voice prompts can be tailored to suit particular needs and preferences. Simply, any audio for a prompt can be used as a user wishes. Furthermore, Applicant's specification states that it is known in the art for programmers to tailor the vocal, dialect, or linguistic characteristics of voice prompts in interactive voice response systems (Specification 2:3-11). These teachings amply support the obviousness to tailor Osder's voice prompts in the manner recited in claims 3-8 and 11-16 for users with different preferences and purposes.